

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance
(916) 322-5662

• • Administration • •
322-5660

• • Executive/Legal • •
322-5901

• • Enforcement
322-6441

April 24, 1984

John Ruprecht
324 N. Main St.
P.O. Box 1445
Fort Bragg, CA 95437

Re: Advice Letter No. A-84-083

Dear Mr. Ruprecht:

Thank you for your request for advice on behalf of City Council candidate, Ann Waller.

FACTS

Ann Waller is running for a position on the Fort Bragg City Council. Ms. Waller is a reserve for the City's police department and her husband is an officer for the department.

QUESTIONS PRESENTED

1. Does the Political Reform Act prevent Ms. Waller from assuming a position on the City Council?
2. If elected, will Ms. Waller be required to disqualify herself from decisions affecting the police department?

CONCLUSIONS

1. The Political Reform Act will not prevent Ms. Waller from assuming a position on the City Council.
2. If she is elected, Ms. Waller will not be required to disqualify herself on decisions affecting the police department.

DISCUSSION

The Political Reform Act will not prevent Ms. Waller from serving as a City Councilwoman. However, the Act may affect her governmental decision making. Government Code Section 87100^{1/} prohibits a public official from making, participating in the making, or using her official position to influence a governmental decision in which she knows or has reason to know she has a financial interest. An official has a "financial interest" in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on:

(a) Any business entity in which the public official has [an] ... investment worth more than one thousand dollars (\$1,000).

(b) Any real property in which the public official has [an] ... interest worth more than one thousand dollars (\$1,000).

(c) Any source of income . . . aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official . . . holds any position of management.

Section 87103.

Generally the employers of an official and her spouse are sources of income to the official. (Section 82030.) However, in the present case, the police department is not a source of income because, under the Act, salary received from a local government agency is not considered to be "income."^{2/} (Section 82030(b)(2).) Therefore, if Ms. Waller is elected, she will not be required to disqualify herself from decisions which will materially affect the police department.

^{1/} Hereinafter all statutory references are to the Government Code unless otherwise indicated.

^{2/} I am assuming that Ms. Waller receives a salary as a police reserve officer.

John Ruprecht
April 24, 1984
Page 3

My advice is limited to the provisions of the Political Reform Act. I cannot advise you as to whether there are any other provisions, outside of the Act, which will prevent Ms. Waller from serving as a City Councilwoman.

If I can be of any further help to you, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:plh

JOHN J. RUPRECHT
Attorney at Law
324 N. MAIN ST. P.O. BOX 1445
FORT BRAGG, CA 95437

707-964-2973

April 2, 1984

Fair Political Practices Commission
Secretary of State
Political Reform Division
1230 J Street
P.O. Box 1467
Sacramento, CA 95807



Dear Sir or Madam:

I would like some information regarding a possible conflict of interest matter. If a candidate for City Council, who is also a reserve police officer with the City's Police Department, is elected, would that be an incompatible office under Government Code §1091 et seq.?

If elected, would the candidate have to disqualify herself from any matters pertaining to the City Police Department because (a) she is a reserve member of the City Police Department, and (b) her husband is also an officer in the City Police Department?

Any information or assistance you can give me in this matter would be greatly appreciated.

Very truly yours,

JOHN J. RUPRECHT
City Attorney
City of Fort Bragg

JJR/jlk

APR 11 11 03 AM '84